

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ARMANDO HERNANDEZ,)	Case No.: 1:20-cv-01019-SAB (PC)
)	
Plaintiff,)	
)	
v.)	ORDER DIRECTING CLERK OF COURT TO
)	RANDOMLY ASSIGN A DISTRICT JUDGE TO
)	THIS ACTION AND TO CHANGE SPELLING OF
IFEOMA OGBUEHI, et al.,)	DEFENDANT OGBOEHI'S NAME
)	
Defendants.)	FINDINGS AND RECOMMENDATION
)	RECOMMENDING DISMISSAL OF CERTAIN
)	CLAIMS AND DEFENDANTS
)	
)	(ECF Nos. 10, 11)

Plaintiff Armando Hernandez is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 17, 2020, the undersigned screened Plaintiff's complaint and found that Plaintiff stated a cognizable claim for retaliation and deliberate indifference against Defendants Ogbuehi and Gonzales. (ECF No. 10.) However, Plaintiff was advised that he failed to state any other cognizable claims. (Id.) Therefore, Plaintiff was advised that he could file an amended complaint or a notice of intent to proceed on the claims found to be cognizable. (Id.)

On August 31, 2020, Plaintiff filed a notice of intent to proceed only on the retaliation and deliberate indifference claims against Defendants Ogbuehi and Gonzales and dismiss all other claims and Defendants. (ECF No. 11.) Plaintiff also requests that the Court change the spelling on Defendant Ogboehi's name to "Ogbuehi." (Id.)

1 Based on Plaintiff's August 31, 2020 notice, the Court will recommend that this action proceed
2 against Defendants Ogbuehi and Gonzales for retaliation and deliberate indifference to a serious
3 medical need. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v.
4 Twombly, 550 U.S. 544, 555 (2007); Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010). The Court
5 will also recommend all other claims and Defendants be dismissed from the action for failure to state a
6 cognizable claim for relief.

7 Accordingly, based on the foregoing, it is HEREBY ORDERED that the Clerk of Court
8 randomly assign a Fresno District Judge to this action. The Clerk of the Court is directed to correct
9 the spelling of Defendant Ogboehi's name on the Court's docket by substituting "Ifeoma Ogbuehi" for
10 "Ifeoma Ogboehi."

11 Further, it is HEREBY RECOMMENDED that:

- 12 1. This action proceed against Defendants Ogbuehi and Gonzales for retaliation and
13 deliberate indifference; and
- 14 2. All other claims and Defendants be dismissed for failure to state a cognizable claim
15 for relief.

16 These Findings and Recommendations will be submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**
18 after being served with these Findings and Recommendations, Plaintiff may file written objections
19 with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and
20 Recommendations." Plaintiff is advised that failure to file objections within the specified time may
21 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
22 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

23
24 IT IS SO ORDERED.

25 Dated: September 2, 2020


UNITED STATES MAGISTRATE JUDGE

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